

By: Raymond, Kuempel, Anderson of Dallas,  
Herrero, White, et al.

H.B. No. 1457

Substitute the following for H.B. No. 1457:

By: Guillen

C.S.H.B. No. 1457

A BILL TO BE ENTITLED

AN ACT

relating to fantasy sports contests.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 13, Occupations Code, is amended by adding Chapter 2053 to read as follows:

CHAPTER 2053. FANTASY SPORTS CONTESTS

Sec. 2053.001. DEFINITIONS. In this chapter:

(1) "Fantasy sports contest" means a competition in which:

(A) a participant pays money or other consideration for the opportunity to assemble a fictional team composed of professional or amateur sports athletes selected by the participant to compete against other fictional teams assembled by other competition participants;

(B) the outcome of the competition reflects the relative knowledge and skill of the participants and is based on the actual statistical performance of the selected athletes in sports competitions, or in a season or series of sports competitions;

(C) a prize is awarded to the competition winner;

(D) the outcome of the competition or the redemption of the winnings is not displayed or represented in a manner that mimics a slot machine or other form of casino gaming, including a banked card game, poker, craps, roulette, keno, lotto, and bingo; and

1           (E) the competition is not presented using any  
2 depiction of a casino gaming graphic, theme, or title, including  
3 any depiction of a slot machine-style symbol, a banked card game,  
4 poker, craps, roulette, keno, lotto, and bingo.

5           (2) "Fantasy sports operator" means a person,  
6 including an entity, or a division of an entity, that offers fantasy  
7 sports contests to the public.

8           Sec. 2053.002. LEGISLATIVE FINDINGS. (a) The legislature  
9 finds that a participant in a fantasy sports contest is an actual  
10 contestant in a bona fide contest for the determination of the skill  
11 of the participant in assembling a fictional team of sports  
12 athletes.

13           (b) A person who pays an entrance fee to compete in a fantasy  
14 sports contest is not placing a bet for purposes of the application  
15 of an offense under Chapter 47, Penal Code.

16           Sec. 2053.003. PARTICIPATION IN FANTASY SPORTS CONTEST. A  
17 person may pay an entrance fee to participate in a fantasy sports  
18 contest.

19           Sec. 2053.004. OPERATION OF FANTASY SPORTS CONTEST. (a) A  
20 person may offer fantasy sports contests as a fantasy sports  
21 operator in this state in accordance with this chapter and any  
22 applicable federal law and may participate in the earnings of a  
23 business that offers fantasy sports contests.

24           (b) A fantasy sports operator may not:

25               (1) award a prize based:

26                       (A) on the score, the point spread, or any  
27 performance of a single professional or amateur sports team or any

1 combination of professional or amateur sports teams;

2 (B) solely on any single performance of an  
3 individual athlete in a single professional or amateur sports  
4 competition or other event; or

5 (C) on live pari-mutuel racing under the Texas  
6 Racing Act (Article 179e, Vernon's Texas Civil Statutes);

7 (2) offer a fantasy sports contest to the public  
8 without disclosing before the contest all prizes or awards offered  
9 to winning participants of the contest; or

10 (3) offer a fantasy sports contest based on the  
11 performance of athletes in a youth, high school, or collegiate  
12 sports competition or athletic event.

13 Sec. 2053.005. CONSUMER PROTECTION. A fantasy sports  
14 operator shall implement commercially reasonable procedures for  
15 fantasy sports contests that:

16 (1) prevent an employee of the operator, and any  
17 relative living in the same household as the employee, from  
18 competing in a fantasy sports contest in which a cash prize is  
19 awarded;

20 (2) prohibit the operator from being a participant in  
21 a fantasy sports contest that the operator offers;

22 (3) prevent an employee or agent of the operator from  
23 sharing with third parties confidential information that could  
24 affect fantasy sports contest play until the information has been  
25 made publicly available;

26 (4) verify that fantasy sports contest participants  
27 are 18 years of age or older;

1           (5) restrict an individual who is a player, a game  
2 official, or another participant in a professional or amateur  
3 sports competition from participating in a fantasy sports contest  
4 that is determined, wholly or partly, on the performance of that  
5 individual, the individual's professional or amateur team, or the  
6 accumulated statistical results of the sport or competition in  
7 which the individual is a player, game official, or other  
8 participant; and

9           (6) prevent the commingling of fantasy contest player  
10 funds with operational funds unless the operator maintains a  
11 reserve that:

12                   (A) exceeds the amount of contest player funds on  
13 deposit with the operator;

14                   (B) is not used by the operator for operational  
15 activities; and

16                   (C) is in the form of cash, cash equivalents,  
17 payment processor reserves, payment processor receivables,  
18 irrevocable letters of credit, bonds, or any combination of those  
19 items.

20           Sec. 2053.006. INJUNCTIVE RELIEF. (a) The attorney  
21 general may institute an action for injunctive relief to restrain a  
22 violation by a person who appears to be in violation of or  
23 threatening to violate this chapter.

24           (b) An action filed under this section by the attorney  
25 general must be filed in a district court in Travis County or the  
26 county in which the violation occurred.

27           (c) The attorney general may recover reasonable expenses

1 incurred in obtaining injunctive relief under this section,  
2 including court costs, reasonable attorney's fees, investigative  
3 costs, witness fees, and deposition expenses.

4 (d) In an injunction issued under this section, a court may  
5 include reasonable requirements to prevent further violations of  
6 this chapter.

7 SECTION 2. Section 47.02(c), Penal Code, is amended to read  
8 as follows:

9 (c) It is a defense to prosecution under this section that  
10 the actor reasonably believed that the conduct:

11 (1) was permitted under Chapter 2001, Occupations  
12 Code;

13 (2) was permitted under Chapter 2002, Occupations  
14 Code;

15 (3) was permitted under Chapter 2004, Occupations  
16 Code;

17 (4) was permitted under Chapter 2053, Occupations  
18 Code;

19 (5) consisted entirely of participation in the state  
20 lottery authorized by the State Lottery Act (Chapter 466,  
21 Government Code);

22 (6) [~~5~~] was permitted under the Texas Racing Act  
23 (Article 179e, Vernon's Texas Civil Statutes); or

24 (7) [~~6~~] consisted entirely of participation in a  
25 drawing for the opportunity to participate in a hunting, fishing,  
26 or other recreational event conducted by the Parks and Wildlife  
27 Department.

1 SECTION 3. Section 47.09(a), Penal Code, is amended to read  
2 as follows:

3 (a) It is a defense to prosecution under this chapter that  
4 the conduct:

5 (1) was authorized under:

6 (A) Chapter 2001, Occupations Code;

7 (B) Chapter 2002, Occupations Code;

8 (C) Chapter 2004, Occupations Code; ~~or~~

9 (D) Chapter 2053, Occupations Code; or

10 (E) the Texas Racing Act (Article 179e, Vernon's  
11 Texas Civil Statutes);

12 (2) consisted entirely of participation in the state  
13 lottery authorized by Chapter 466, Government Code; or

14 (3) was a necessary incident to the operation of the  
15 state lottery and was directly or indirectly authorized by:

16 (A) Chapter 466, Government Code;

17 (B) the lottery division of the Texas Lottery  
18 Commission;

19 (C) the Texas Lottery Commission; or

20 (D) the director of the lottery division of the  
21 Texas Lottery Commission.

22 SECTION 4. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2017.